

HOUSE BILL No. 1964

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-11-5-4.5; IC 33-19-3-2.5; IC 35-50-6-5.

Synopsis: Lawsuits by inmates. Requires an indigent person, who is confined to the department of correction and who is unable to pay the required fees or other court costs upon commencement of a civil action or proceeding, to pay a partial filing fee from the person's prisoner trust fund account. Specifies that process concerning the person's case may not be served until the partial filing fee is paid. Provides that the department of correction shall deprive a committed person, not to include a person who has been released on parole, of: (1) not more than 180 days of credit time; and (2) certain privileges; if a court determines that a civil action or proceeding brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.

Effective: July 1, 1999.

Cook

January 26, 1999, read first time and referred to Committee on Courts and Criminal Code.



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1964

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-11-5-4.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]: **Sec. 4.5. The department shall impose upon a committed**
4 **person at least one (1) of the following sanctions for a period not to**
5 **exceed one hundred eighty (180) days if a court determines that a**
6 **civil action or proceeding brought by the person in a state or an**
7 **administrative court is frivolous, unreasonable, or groundless:**

8 **(1) Loss of:**

9 **(A) television;**

10 **(B) radio;**

11 **(C) commissary; or**

12 **(D) recreational privileges.**

13 **(2) Additional work duty.**

14 SECTION 2. IC 33-19-3-2.5 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.5. (a) As used in this
16 section, "offender" means a person confined by the department of
17 correction.



(b) When an offender commences an action or a proceeding without paying fees or other court costs under section 2 of this chapter, the offender shall obtain from the appropriate official of the correctional facility or facilities at which the offender is or was confined, a certified copy of the prisoner's trust fund account statement for the six (6) months immediately preceding submission of the complaint or petition. The offender shall file the trust fund account statement in addition to the statement required under section 2 of this chapter.

(c) The offender shall pay a partial filing fee that is twenty percent (20%) of the greater of:

(1) the average monthly deposits to the offender's account; or

(2) the average monthly balance in the offender's account;

for the six (6) months immediately preceding the filing of the complaint or petition. However, the fee may not exceed the full statutory fee for the commencement of actions or proceedings. **Process concerning the offender's case may not be served until the fee is paid.**

(d) If the offender claims exceptional circumstances that render the offender unable to pay the partial filing fee required by this section, in addition to the statement required by section 2 of this chapter and the statement of account required by subsection (b), the offender shall submit an affidavit of special circumstances setting forth the reasons and circumstances that justify relief from the partial filing fee requirement.

(e) If the court approves the application to waive all fees, the court shall give written notice to the offender that all fees and costs relating to the filing and service will be waived. If the court denies the application to waive all fees, the court shall give written notice to the offender that the offender's case will be dismissed if the partial filing fee is not paid within forty-five (45) days after the date of the order, or within an additional period that the court may, upon request, allow. **Process concerning the offender's case may not be served until the fee is paid.**

SECTION 3. IC 35-50-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time ~~he~~ **the person** has earned for ~~any~~ **either** of the following:

(1) A violation of one (1) or more rules of the department of correction.

(2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.



1 ~~(3) If a court determines that a civil claim brought by the person~~
 2 ~~in a state or an administrative court is frivolous, unreasonable, or~~
 3 ~~groundless.~~

4 However, the violation of a condition of parole or probation may not be
 5 the basis for deprivation. Whenever a person is deprived of credit time,
 6 ~~he~~ **the person** may also be reassigned to Class II or Class III.

7 **(b) A person shall be deprived of credit time, in an amount not**
 8 **to exceed one hundred eighty (180) days, if a court determines that**
 9 **a civil action or proceeding brought by the person in a state or an**
 10 **administrative court is frivolous, unreasonable, or groundless.**

11 ~~(b)~~ (c) Before a person may be deprived of earned credit time, the
 12 person must be granted a hearing to determine ~~his~~ **the person's** guilt
 13 or innocence and, if found guilty, whether deprivation of earned credit
 14 time is an appropriate disciplinary action for the violation. In
 15 connection with the hearing, the person is entitled to the procedural
 16 safeguards listed in section ~~4(c)~~ of this chapter. The person may waive
 17 his right to the hearing.

18 ~~(c)~~ **(d)** Any part of the credit time of which a person is deprived
 19 under this section may be restored.

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